

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

WILLIAM HENRY DEASE,)	
)	
Petitioner,)	
)	
vs.)	No. CIV-18-375-C
)	
CARL BEAR, Warden,)	
)	
Respondent.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner filed the present action pursuant to 28 U.S.C. § 2241 challenging the constitutionality of his state court convictions. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B), the matter was referred to United States Magistrate Judge Shon T. Erwin, who entered a Report and Recommendation (“R&R”) on April 26, 2018, recommending the Petition be dismissed on filing pursuant to Rule 4, Rules Governing § 2254 Cases. Petitioner has timely objected.

Initially, the Court will address Petitioner’s request that both Judge Erwin and the undersigned should recuse because they have made prior rulings adverse to Petitioner in other cases. The Tenth Circuit has rejected this argument. “[A] motion to recuse cannot be based solely on adverse rulings.” Willner v. Univ. of Kansas, 848 F.2d 1023, 1028 (10th Cir. 1988). Accordingly, Petitioner’s request for recusal will be denied.

The substantive facts and law are accurately set out in Judge Erwin’s R&R and there is no purpose to be served in repeating them yet again. As Judge Erwin noted, Petitioner has failed to plead any claim demonstrating entitlement to relief under 28 U.S.C. § 2241.

Rather, to the extent Petitioner raises any cognizable claim, that claim must be brought pursuant to 28 U.S.C. § 2254. Petitioner offers no argument or evidence to counter this reasoning. Accordingly, he has failed to state a cognizable claim.

As set forth more fully herein, the Court adopts, in full, the Report and Recommendation of the Magistrate Judge (Dkt. No. 7). Petitioner's request for habeas relief is DISMISSED. A separate judgment will issue.

IT IS SO ORDERED this 10th day of May, 2018.



ROBIN J. CAUTHRON
United States District Judge